

October 30, 2008

E-19J

Steven Clark
CEMVP-PM-A
U.S. Army Corps of Engineers
190 Fifth St. E.
Suite 401
St. Paul, Minnesota 55101

Re: Comments on the Draft Environmental Impact Statement for the Mississippi River Headwaters Reservoir Operating Plan Evaluation; Cass, Winnibigoshish, Leech, Pokegema, Sandy Whitefish and Gull Lakes in Minnesota – CEQ # 20080344

Dear Mr. Clark:

The U.S. Environmental Protection Agency (U.S. EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the Mississippi River Headwaters Reservoir Operating Plan Evaluation (ROPE) for Cass, Winnibigoshish, Leech, Pokegema, Sandy Whitefish and Gull Lakes in Minnesota. Our comments in this letter are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act.

A DEIS for the Study was prepared by the U.S. Army Corps of Engineers in coordination with the U.S. Forest Service with the goal of developing a 25-year operating plan for Cass, Winnibigoshish, Leech, Pokegema, Sandy Whitefish and Gull Lakes and Knutson Dam. Reasons stated for modifying the current operating plans include the following:

- Current plans were developed in most part during the period from the 1930s to the 1960s, and only minor modifications have been made to the plans since then;
- Changes have occurred to the environment in the Headwaters due to increased human development;
- There is an increasing awareness of the interactions between competing uses of the Headwaters resources.

The Draft EIS evaluates five alternatives: No Action Alternative, the R Plan, the E Plan, the T Plan, and the P Plan. The P Plan was identified as the Preferred Alternative in the DEIS.

Based on our review of the DEIS, U.S. EPA has rated the Draft EIS as **“Environmental Concerns – Insufficient Information, EC-2.”** This rating will be published in the Federal Register. A copy of our rating definitions is enclosed. We recommend the final EIS address the following issues.

General Comments

We have the following comments to offer:

- The DEIS is written as a programmatic document. However, there is no indication that additional NEPA analysis would be completed for implementation of the individual reservoir operating plans.
 - The level of detail provided for resource impacts is deficient for this type of document. We suggest that additional NEPA analyses be performed for the individual operating plans.
 - The document primarily uses qualitative impact analysis, which makes it difficult to determine the amount of impact to each resource category and for cumulative impact purposes.
- Plate 1 does not provide locations for the dams included in the Alternatives or the hydroelectric dams located in the study area. As this is the only exhibit in the document with the lake locations, we suggest that the exhibit be modified to include the dam locations and that, in addition, an exhibit be generated for each reservoir studied.

Purpose and Need

The DEIS does not contain an explicit, clear Purpose and Need statement. The document should provide a Purpose and Need statement describing the specific problems that the project seeks to resolve.

Alternatives

We have the following comments to offer:

- No Action Alternative
 - The No Action Alternative indicates that the current operating plan would continue throughout the study period with “only very minor adjustments to assist in meeting operating objectives.” However, the “minor adjustments” are not defined.
 - Are the “minor adjustments” included in the Basic Plan Components Current Operating Plan shown on pages 110-111 and the Existing Hydrographs shown on pages 112-115?
 - What is the source(s) for the Existing Operating Hydrographs? How many years of data were used to generate the information?
- Plans R, E, T and P
 - There is no direct comparison between the alternative Plans R, E, T, and P, nor the No Action Alternative, other than the matrix that is provided in Section 7.1 for environmental impacts only, to be able to determine the environmental and performance differences between the alternatives in an efficient manner. A summary comparison matrix between the operating plans for all of the Alternatives, including No Action, would be helpful to the reader. These comparisons should rely on actual environmental and performance data.
- Evaluation and Comparison of Alternative Plans
 - The alternatives are evaluated based on the matrix in Section 7.1; however, there are no definitions for the items contained in the key. What defines a “Significant Beneficial” impact versus a “Substantial” or “Minor” one? What defines a “Significant Adverse” impact versus a “Substantial” or “Minor” one? (See comments above regarding deficient level of detail and qualitative impact analysis.)
 - In order for alternatives to be removed from consideration, there must be a discussion on why they do not meet the purpose and need. The document should include a discussion of the criteria used to eliminate or retain alternatives.

- Formulation of Alternative Plans – Section 5.1
 - The EIS should provide a more complete and quantified description of all alternatives and a detailed explanation of why some were carried forward and others were not. Please describe in detail why Plan P is preferred.
 - Was an alternative evaluated that would return the study area back to the natural hydrologic cycle that existed before the dams were constructed? We suggest that this alternative should be evaluated, since the main purpose for construction of the dams (e.g. commercial navigation) is no longer applicable. This was also requested in the letter from the Minnesota Department of Natural Resources dated December 20, 2002.

Recommended Plan

The document should provide more detail on the Adaptive Management Plan. What measures are going to be monitored to determine if the operating plans need to be modified? What mitigation measures would be included in the plan if negative impacts are realized? How would they be implemented with the Tribes and Federal Agencies?

Affected Environment

Please include data for Bemidji and Cass Lakes in Table 4.1. Please verify the location, elevation, and function descriptions for the lakes and dams, as some of the information appears to be incorrect. The document should provide information on the historical understanding of the US Corps of Engineers - St. Paul District acknowledgement of trust resources, and how the elevations and functional descriptions for the Lakes & dams identify affects on tribal trust resources.

Environmental Effects

How would the significant population change expected during the study period, noted in Table 4.2.3.b in the Affected Environment section, affect the performance and environmental impacts of the Alternatives?

Water Quality

What actions are planned, if any, as a part of the Alternatives to work with the recreational community to improve water quality? How will the Federal government's trust responsibilities for tribes be addressed for water quality concerns?

Natural Resources

How would the Alternatives affect migratory birds? Consultation should be completed with the Minnesota Department of Natural Resources, the U.S. Fish and Wildlife Service and the Tribes to determine the impacts.

Social Effects, Economic Effects, and Cultural Resource Effects

- How would the alternatives affect the wild rice harvest?
 - The statements provided in the document are too general to be able to determine if there would be negative or beneficial impacts to tribal harvests. (See comment above regarding qualitative impact analysis.) We recommend that the EIS state the anticipated beneficial or negative impacts.
- How would the alternatives affect tribal trust resources, other than the wild rice harvest, within the EIS study area?
- The document should explicitly address the Leech Lake Band of the Ojibwe's concerns regarding treaty rights and trust responsibility, as stated in their letters dated March 19, 2007 and February 25, 2008.

- Section 5.3.18 notes that “reservoir water level increases will be minimized when practical.” We recommend that coordination occur with the Tribes prior to increasing the levels so as to limit wild rice crop impacts.

We are available to discuss these comments and to further assist you in determining the appropriate level of analysis for this and other NEPA analyses. Should you have any questions, please do not hesitate to contact Kathleen Kowal of my staff at (312) 353-5206 or via email at kowal.kathleen@epa.gov.

Sincerely,

/s/

Kenneth A. Westlake, Supervisor
NEPA Implementation
Office of Enforcement and Compliance Assurance

Enclosure – Summary of Rating Definitions